United Nations A/C.5/56/SR.45

General Assembly
Fifty-sixth session

Official Records

Distr.: General
1 April 2002

Original: English

Fifth Committee

Summary record of the 45th meeting
Held at Headquarters, New York, on Thursday, 7 March 2002, at 10 a.m.

Chairman: Mr. Effah-Apenteng ..... (Ghana)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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02-27623 (E)

The meeting was called to order at 10.15 a.m.

Agenda item 125: Scale of assessments for the apportionment of the expenses of the United Nations (*continued*) (A/56/767 and A/C.5/56/35)

1. **The Chairman** drew attention to a letter dated 18 January 2002 from the President of the General Assembly addressed to the Chairman of the Fifth Committee (A/C.5/56/35), transmitting, for appropriate action by the Committee, a letter dated 27 December 2001 from the Secretary-General addressed to the President of the General Assembly (A/56/767). On the basis of consultations with delegations and owing to the shortness of the session, he wished to propose the following draft resolution* for the consideration of the Committee:

"*The General Assembly*,

"*Having considered* the letter dated 27 December 2001 from the Secretary-General addressed to the President of the General Assembly,[1]

"1. *Requests* the Committee on Contributions to consider the issues raised in the Secretary-General's letter[1] and to report thereon to the General Assembly at its fifty-seventh session;

"2. *Decides* to consider the matter at its fifty-seventh session, taking into account the views of the Committee on Contributions thereon."

2. If he heard no objection, he would take it that the Committee wished the draft resolution to be issued as an official document and circulated in all the official languages for action by the Committee at its next meeting.

3. *It was so decided.*

Agenda item 123: Proposed programme budget for the biennium 2002-2003 (*continued*)

Conditions of service and compensation for officials other than Secretariat officials (A/56/7/Add.2 and A/C.5/56/14)

4. **Ms. Beagle** (Director of the Specialist Services Division, Office of Human Resources Management), introducing the report of the Secretary-General on conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice (ICJ), judges of the International Tribunal for the Former Yugoslavia (ICTY), judges of the International Tribunal for Rwanda (ICTR) and ad litem judges of the International Tribunal for the Former Yugoslavia (A/C.5/56/14), said that the report had been prepared pursuant to General Assembly resolutions 53/214 and 55/249. Part one of the report, on the International Court of Justice, and part two, on the Tribunals, presented the background, the concerns that had been raised and the considerations that had led to the conclusions stated in part three.

5. Analysis of the movements of the Netherlands guilder against the United States dollar supported the conclusion that the local currency floor/ceiling mechanism that had been introduced continued to provide adequate protection in the value of the level of salary of the judges over the three-year period 1999-2001. The Secretary-General therefore recommended no change in the level of annual emoluments of the members of the Court and judges of the Tribunals and the continuation of the floor/ceiling mechanism after the changeover to the euro. The Secretary-General did, however, recommend an increase in the special allowances of the President of the Court and the Presidents of the Tribunals from $15,000 to $20,000.

6. The Secretary-General further recommended that the increase in the level of the education grant effective 1 January 2001, applicable to staff in the Professional and higher categories, should be extended to members of the Court and judges of the two Tribunals. In response to questions raised about the lack of health insurance for judges of ICTR serving at Arusha, the Secretary-General observed that the Organization had made provisions for the judges of both Tribunals to participate in an appropriate United Nations medical insurance plan, at full premium.

7. With regard to the representations made by the President of ICTR relating to changes in ICTR judges' entitlements to take account of the hardship classification of the Arusha duty station, the Secretary-General observed. that should the General Assembly agree to a change in the home leave travel cycle, there would be a need to revise the language of paragraph 1 (b) of article 1 of the travel and subsistence regulations

* Subsequently circulated as A/C.5/56/L.42.
[1] A/56/767.

for the judges of the International Tribunals, which had been approved by the General Assembly in its resolution 53/214.

8. Concerning pensions in payment, the Registrar of the International Court of Justice had asked for steps to be taken to remedy the wide disparity between pensions set prior to 1990 and pensions under the current regime and the Registry and President of ICTY had expressed concern about the disparity between the pension benefits of ICTY and ICJ judges. The recommendation of the Advisory Committee, which had been approved by the General Assembly, in its resolution 53/214, had been that the pension benefit for the judges of ICTY and ICTR should be based on that applicable to the judges of ICJ, prorated to account for the difference in length in the terms of appointment. The Secretary-General, noting that the General Assembly was the sole authority to determine the conditions of service and pension benefits of the judges of the Court and of the Tribunals, considered that the existing disparity should be brought to the attention of the Assembly for its consideration.

9. The Secretary-General proposed no changes in the conditions of service of ad hoc judges, but wished to bring the issue of providing educational assistance to the ad litem judges to the attention of the General Assembly for its consideration. The programme budget implications of the increase in the special allowance and in the education grant were estimated at $48,600 for the biennium 2002-2003.

10. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/56/7/Add.2), said that the Advisory Committee agreed with the recommendation of the Secretary-General that the emoluments of the judges should remain at $160,000 per year, to be adjusted in accordance with existing procedure. It recommended that the special allowance of the President of ICJ should remain at $15,000 per year. The Advisory Committee also agreed with the proposals of the Secretary-General on education and installation grants, health insurance and home leave travel, as indicated in paragraphs 6 to 9 of its report. There was no basis, however, for changing the current method of adjusting pensions in payment for cost of living with respect to retired judges of ICJ.

11. With respect to pension benefits for judges of the Tribunals, the Advisory Committee reiterated its earlier view and did not recommend any change in the current arrangement. On the question of providing an education allowance to ad litem judges of ICTY, the Advisory Committee also maintained its position, set out in paragraph 11 of its report (A/55/806), which had been endorsed by the General Assembly. On the question of service-related injuries and illnesses, the Advisory Committee took note of the clarification provided by the Secretary-General.

Agenda item 121: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Agenda item 126: Human resources management (*continued*)

Gratis personnel (A/56/839)

12. **Mr. Beissel** (Director of the Operational Services Division, Office of Human Resources Management), introducing the report of the Secretary-General on gratis personnel provided by Governments and other entities (A/56/839) for the period from 1 January to 31 December 2001, said that the overall number of type I gratis personnel had decreased by 29.4 per cent from 265 as at December 2000 to 187 by 31 December 2001. At the close of the period there had been three type II gratis personnel in service: an indigenous people's rights lawyer from New Zealand serving at the Office of the High Commissioner for Human Rights (OHCHR); a hydrology expert from Germany serving at the Economic and Social Commission for Western Asia (ESCWA); and a health economist from Spain responsible for coordinating HIV/AIDS activities at the Economic Commission for Africa (ECA).

13. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that, broadly speaking, there were two types of gratis personnel. Type I gratis personnel included interns, associate experts and technical cooperation experts obtained on a non-reimbursable loan basis. Type II were personnel provided to the United Nations by a Government or other entity pursuant to the conditions established in General Assembly resolution 51/243. The Advisory Committee noted the decrease in the number of type I gratis personnel from 265 to 187 over the period covered by

the report, while the number of type II gratis personnel decreased from 43 to 3.

14. The Advisory Committee observed that the functions of a health economist at ECA performed by one of the type II gratis personnel were mandated activities that should have been carried out under the regular budget. Since the other two type II gratis personnel appeared also to fulfil criteria for type I gratis personnel, the Advisory Committee requested that the next report on the subject should reflect a more precise application of the definition of the two types of gratis personnel. The Advisory Committee recommended, lastly, that the General Assembly should take note of the report of the Secretary-General contained in document A/56/839.

Agenda item 126: Human resources management (*continued*) (A/56/227, A/56/512, A/56/701, A/56/816, A/56/834 and A/56/846; A/C.5/56/3; A/C.5/56/L.7; A/C.5/56/CRP.1 and Add.1)

15. **Mr. Beissel** (Director of the Operational Services Division, Office of Human Resources Management) introduced the reports of the Secretary-General on the composition of the Secretariat (A/56/512), on the list of staff of the United Nations Secretariat (A/C.5/56/L.7), amendments to the Staff Rules (A/56/227), the mandatory age of separation (A/56/701), placement of staff members serving in the Executive Office of the Secretary-General (A/56/816) and consultants and individual contractors (A/56/834), and the note by the Secretariat on the streamlining of rules (A/C.5/56/3).

16. The annual report of the Secretary-General on the composition of the Secretariat provided information on certain demographic characteristics of the staff of the Secretariat and on the system of desirable ranges of the geographical distribution of staff. Data in the report was current as of 30 June 2001.

17. As requested by staff regulation 12.3, the report of the Secretary-General on amendments to the Staff Rules provided the full text of amendments to the Staff Rules, some of which had been provisionally promulgated in accordance with staff regulation 12.2. The Secretary-General intended to implement the amendments that had not been so promulgated as from 1 January 2002. The report provided the rationale for every amendment included therein and the Secretary-General recommended that the General Assembly take note of the amendments to the Staff Rules set out in the annex to the report.

18. In preparing his report on the mandatory age of separation, the Secretary-General had sought the views of the United Nations Joint Staff Pension Fund (UNJSPF) and the International Civil Service Commission (ICSC) on the implications of changing the mandatory age of separation to 62 years. The information received indicated that fixing the mandatory age of separation for staff members appointed prior to 1 January 1990 at the current age of 62 years would have a minimal impact in respect of the age profile of the Organization, geographical distribution, gender balance and career development opportunities. Vacancies arising from sources other than mandatory separation offered better opportunities for attaining the Organization's goals in the above areas. A change in the mandatory age of separation would have a somewhat positive impact on the actuarial situation of UNJSPF, especially if the other common system organizations would adopt the same policy. It would also have a positive impact on staff morale in view of the fact that all staff members would be treated equally, regardless of their date of entrance on duty, provided that their acquired rights were respected.

19. The report of the Secretary-General on the placement of staff members serving in the Executive Office of the Secretary-General provided information on the procedures which the Secretary-General intended to put in place for placement of staff members serving in the Executive Office. In accordance with Assembly resolution 51/226, the Secretary-General had been exercising his discretionary power of appointment and promotion in respect of staff placed in his Executive Office. However, when staff members were released from that Office, their appropriate placement was hampered by the established existing rules and policies. That discretionary authority would be limited to staff members recruited under the established procedures set out in staff rules 104.14 and 104.15, who were subsequently requested to serve in the Executive Office of the Secretary-General, at the General Service, Professional and Director (D-1, D-2) levels, and would require consultation with the heads of departments or offices concerned. The Secretary-General sought the approval of the General Assembly for his proposal, which would not require any change in the existing staff regulations and rules.

20. The report of the Secretary-General on consultants and individual contractors covered the year 2000 and benefited from the recalibration of data that had been necessitated by the Integrated Management Information System (IMIS) Release III. In accordance with requests made by the General Assembly in resolution 51/226 and by the Advisory Committee, the report expanded on the format of previous reports. Overall, there had been an increase in the numbers of both consultants and individual contractors. The number of days worked and the combined expenditures on contractors had also increased.

21. Lastly, the note by the Secretariat on the streamlining of rules had been requested by the General Assembly in section VIII of its resolution 55/258 and provided details of the obsolete or redundant documentation that had been eliminated so far in the context of the streamlining of the rules. Altogether, from 1 June 1997 until 31 August 2001, 460 documents had been abolished, or had lapsed or expired.

22. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the report of the Advisory Committee on the mandatory age of separation (A/56/846), drew attention to the observations set out in paragraph 10. Orally presenting the Advisory Committee's report on the report of the Secretary-General on consultants and individual contractors (A/56/834), he noted the delay in the submission of the report of the Secretary-General. The Advisory Committee had been informed that the next report, on the use of consultants during 2001, would be completed by July 2002. The Advisory Committee welcomed the expanded format of the report and requested that the next report include a precise definition of consultants and contractors. It recommended that the General Assembly should take note of the report.

23. **Mr. Kelapile** (Botswana), referring to paragraph 58 of the report of the Secretary-General on the composition of the Secretariat (A/56/512), asked why ECA was included in both the list of departments and offices with low strategic replacement needs and the list of departments and offices with medium strategic replacement needs. He also asked to which office the phrase "Office of the Under-Secretary-General" in subparagraph (a) referred.

24. **Mr. Kang** Jeong-sik (Republic of Korea), referring to the report of the Secretary-General on the mandatory age of separation (A/56/701), said that a change in the mandatory age of separation would have far-reaching implications for many aspects of human resources management in the Organization. It would also have financial repercussions for the Joint Staff Pension Fund and staff-related costs. His delegation was therefore disappointed to find that the analysis contained in the report was incomplete, simplistic and biased, and that long-standing concerns about the steady outflow of young professionals from the Organization and the need for "rejuvenation" of the Secretariat had not been adequately addressed. Furthermore, his delegation did not understand how the Secretariat had come to the conclusion that the impact of the change would be minimal, given that nearly 6,000 staff members could be affected. Although it was difficult to quantify the potential financial repercussions of a change, a reasonable estimate could nonetheless be calculated. Member States needed to have some idea of the possible budgetary implications before making any final decision on the matter. Other important issues, such as the effect of a change on geographical distribution and career development, also needed to be discussed further.

25. The Committee should not rush to a decision on the mandatory age of separation; further input was needed from the Secretariat for a more comprehensive analysis. Moreover, the issue should not be addressed in isolation, but rather in the context of the ongoing discussion of human resources management reform.

26. **Mr. Beissel** (Director of the Operational Services Division, Office of Human Resources Management) said that he would reply during the informal consultations to the points raised by the representative of Botswana. With regard to the statement made by the representative of the Republic of Korea, the central facts for Member States to bear in mind were that there had been 2,461 vacant posts in the Secretariat as at 30 June 2001 and that vacancies arising from non-retirement sources would offer greater opportunities for injecting "new blood" than those arising from mandatory separations. The effect of any change in the mandatory age of separation would be minimal in the first two years after the change, and there would be virtually no effect thereafter. He would be happy to discuss the issue further in informal consultations.

Other matters

27. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that he wished to make a supplementary statement concerning oral reports by the Advisory Committee. At the forty-third meeting of the Fifth Committee, held a few days earlier, a State had commented on the absence of a written version of the one-sentence report on the resources requested by the Secretary-General to strengthen oversight of ICTY and ICTR, which he had submitted orally. Statements had also been made in the Fifth Committee in December 2001 that reports submitted orally by the Chairman of the Advisory Committee should be published before the Fifth Committee took action on the items, and it had been suggested that oral reports by the Chairman of the Advisory Committee should not be referred to in decisions or reports of the Fifth Committee unless they had been published as official documents in all languages.

28. He had spoken on the subject at the forty-second meeting of the Fifth Committee in 1998 (A/C.5/53/SR.42, paras. 43-45), and that statement had been re-circulated to the Fifth Committee at its ninth meeting, on 15 October 2001 (A/C.5/56/SR.9, para. 22). He wished to reiterate that the Advisory Committee authorized its Chairman to report orally for reasons having to do with the most effective and efficient management of the time and other resources available to both the Advisory Committee and the Fifth Committee.

29. Once the Advisory Committee had reported, whether orally or in writing, it was the responsibility of the Fifth Committee to decide how to proceed on the item. A report of the Advisory Committee submitted orally by its Chairman was a formal communication to the General Assembly containing a formal advisory report or recommendation. It was for the Fifth Committee to inform the General Assembly whether or not that formal advisory communication or recommendation should be accepted. Mere publication of such advisory instruments did not make them formal; on the contrary, they were subsequently published in the summary record or as official documents of the General Assembly precisely because they were formal submissions from the Advisory Committee.

30. It had been customary for the Fifth Committee, in its reports to the General Assembly, to refer to oral reports and related recommendations of the Advisory Committee, and clarifications offered orally by the Chairman of the Advisory Committee had also been incorporated in recommendations of the Fifth Committee. Indeed, the Fifth Committee would be remiss if its reports to the General Assembly did not reflect fairly and accurately the proceedings in the Fifth Committee. The Fifth Committee had the power to accept or not to accept a report or recommendation of the Advisory Committee, but its report to the General Assembly would not be factual if it omitted a reference to a report or recommendation made by the Advisory Committee.

31. The Advisory Committee had always placed great emphasis on submitting its reports in writing. Reports submitted orally were unavoidable exceptions due to the circumstances and constraints that he had referred to above and in his previous statements.

32. **Mr. Nakkari** (Syrian Arab Republic) said that his delegation appreciated the assurance that the Advisory Committee had always placed great emphasis on submitting its reports in writing. His delegation understood that reports might need to be submitted orally on an exceptional basis and was concerned only that the exception might become the rule. If a report must be submitted orally for reasons beyond the control of the Advisory Committee, no blame would attach to it. However, in keeping with all recent General Assembly resolutions on pattern of conferences, the reasons for the delay in submitting a written report should be explained, so that the party responsible would be identified.

33. His delegation's insistence on the matter stemmed from the importance of the role assigned to the Advisory Committee. The rules of procedure of the General Assembly established the framework and basis of work of the Advisory Committee, whose documents were official documents and were treated as such. The recommendations contained therein must be considered and a decision made whether or not to accept them. Therefore, they should be handled in accordance with all relevant resolutions of the General Assembly concerning official documents. It would be useful to review the relevant provisions of those resolutions. Certainly, the Chairman of the Advisory Committee was authorized to make oral presentations to the Fifth Committee, purely for its information, but if decisions

were to be taken, the reports should be in the form of official documents, subject to all the applicable rules.

34. **Ms. Sanchez Lorenzo** (Cuba), speaking as coordinator of the Group of 77 and China, for Fifth Committee matters, said that the delegations on whose behalf she spoke understood that it was sometimes necessary for the Advisory Committee, in the light of its heavy workload, to present its reports to the Committee orally, and that some issues did not warrant a full written report. However, as the Advisory Committee was an expert body whose input was important to the work of the Committee, its reports should in most cases be submitted in writing.

The meeting rose at 11.15 a.m.